IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 52 OF 2005

Shri Mohammed Nasir Mohammed Zakir
Shaikh @ Nasir Framewala ..Applicant.

V/s.

The State of Maharashtra ..Respondent.

Shri Uday V. Arolkar for the Applicant.
Shri V.B.Konde-Deshmukh, APP for Respondent-State.

CORAM : A.M.KHANWILKAR, J.
DATED : MARCH 07, 2005

PC :-

1. Heard.

2. Grievance made before this court is that the ground of default was specifically raised before the lower court but finds no place in the judgement as passed. It is well settled that such grievance can be made only before the same court. The record of the court will have to be accepted as it is. That cannot be the basis to question the correctness of the order before the superior court, as observed in AIR 1982 Supreme Court -pg-1249.

3. Accordingly, this application is disposed of with liberty to the petitioner to go back to the same

Judge or to take recourse subject to such other remedy available and permissible with regard to the contention of default within the meaning of section 167 of the Code.

4. Ordered accordingly.

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